IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

WEDNESDAY, THE 28TH MARCH 2007 / 7TH CHAITHRA 1929

WP(C).No. 7961 of 2007(W)

PETITIONER:

1. ABRAHAM GEORGE,
   PRESIDENT, PUNALUR RURAL CO-OPERATIVE SOCIETY
   LTD.NO.Q.1466, PUNALUR P.O., KOLLAM.

2. J.P.JOHN,
   HONORARY SECRETARY, PUNALUR RURAL CO-OPERATIVE
   SOCIETY LTD. NO.Q.1466, PUNALUR P.O., KOLLAM.

BY ADV. SRI.C.P.PEETHAMBARAN
SRI.MANOJ B.MENON

RESPONDENTS:

1. THE ASSISTANT REGISTRAR (GENERAL),
   CO-OPERATIVE ASST. REGISTRAR'S OFFICE,
   PUNALUR.

2. THE BRANCH MANAGER,
   KOLLAM DISTRICT CO-OPERATIVE BANK LTD.,
   PUNALUR BRANCH, PUNALUR.

3. THE CIRCLE INSPECTOR OF POLICE,
   PUNALUR.

4. G.C.BALAKRISHNAN,
   SARADA BHAVANAM, KOMALAMKUNNU, PUNALUR P.O.

5. S.HARIDASAN,
   MELATHIL VEEDU, NELLIPALLI P.O., PUNALUR.

6. SHYAMALA DEVI,
   'SOUPARNIKA', CHEMMANTHOOR, PUNALUR.

BY ADV. SRI.P.B.SURESHKUMAR, SC, KOLLAM DC BANK
SRI.P.B.SAHASRANAMAN
SRI.K.JAGADEESH
SRI.T.S.HARIKUMAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 28/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S.SIRI JAGAN, J.

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W.P.(C).No.7961 of 2007

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Dated this the 28th day of March, 2007

J U D G M E N T

The petitioners claim to be the President and the Honourary Secretary respectively of the Punalur Rural Co-operative Society, which was registered on 6.4.2006 and commenced operation on 10.4.2006 within the area of Punalur Municipality of Pathanapuram Taluk. On 29.7.2006 election was conducted to the Board of Directors and 9 members were elected to the managing committee. The petitioners claim that the 1st petitioner was elected as the President and the 2nd petitioner as the Honourary Secretary. The petitioners allege that the 4th respondent forged a resignation letter of the 1st petitioner from the post of President and also managed to record alleged minutes of the managing committee meeting by forging the signatures of the directors so as to appear that a

Board Meeting was held in which the 4th respondent was elected as the new President and the 6th respondent as the Honourary Secretary. The petitioners on coming to know about the same, convened an urgent meeting of the managing committee and took Ext.P1 resolution. The petitioners submitted Exts.P3 and P5 representations before the Assistant Registrar (General) and Ext.P4 complaint before the Circle Inspector of Police. The petitioners, on the above averments, seek the following reliefs:

> "(i) issue a Writ of Mandamus or any other appropriate Writ, order or direction, directing the 1st respondent to act upon Exts. P-3 and Ext. P-5, which are the request made by a majority of elected members of the Governing Body;
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> (ii) issue of Writ of Mandamus or any other appropriate Writ, order or direction, directing the 1st respondent not to act upon any claim or decision taken other than by the majority of members referred in Ext.P –1 in connection with the affairs of Punalur Rural Co-operative Society Ltd. No.Q-1466;
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> (iii) issue a Writ of Mandamus or any other appropriate Writ, order or direction, directing the 2nd respondent not to permit the respondents 4 & 6 to operate the savings Bank Account No.180 belonging to the Society;
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> (iv) issue a Writ of Mandamus or any other

> appropriate Writ, order or direction, directing the 3rd respondent to act upon Ext. P-4 Complaint which discloses a cognizable offences under Criminal Procedure Code and consequentially register FIR against the 4th respondent and conduct investigation;"

2. This court exercising jurisdiction under Art.226 of the Constitution of India is not in a position to take evidence to decide as to the alleged forgery. Therefore, it is only appropriate that the 1st respondent enquires into the allegations raised by the petitioners and takes a decision on the same. Regarding Ext.P4 complaint, I am of opinion that the C.I. of Police and the 1st respondent cannot simultaneously conduct enquiry since the documents have to be available to both authorities for conducting the enquiry. In the above circumstances, I direct the 1st respondent to consider the complaints of the petitioners as contained in Exts.P3 and P5 and take a decision thereon expeditiously. In the meanwhile, the 1st respondent shall also take a decision as to whether pending the enquiry on Exts.P3 and P5, respondents 4 and 6 should be allowed to operate the bank

account of the society and pass appropriate orders thereon within one week. After the 1st respondent concludes the enquiry, the documents shall be forwarded to the third respondent who shall take appropriate action as warranted by law on Ext.P4 complaint. The 1st respondent shall also consider as to what interim arrangement has to be made with regard to the administration of the society in view of the dispute between the petitioners on the one hand and respondents 4 to 6 on the other hand so as to avoid any stalemate in the working of the society, after hearing the petitioners as well as respondents 4 and 6 as an interim measure.

Writ petition is disposed of as above.

sdk+ S.SIRI JAGAN, JUDGE